

FILED

NOT FOR PUBLICATION

MAY 22 2006

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

AJAY KUMAR,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 04-74516

Agency No. A79-424-657

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted May 15, 2006**

Before: B. FLETCHER, TROTT, and CALLAHAN, Circuit Judges.

Ajay Kumar, a native and citizen of India, petitions for review of the Board of Immigration Appeals' summary affirmance of an Immigration Judge's ("IJ")

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

denial of his application for asylum and withholding of removal and relief under the Convention Against Torture (“CAT”).

We lack jurisdiction to consider petitioner’s Convention Against Torture claim because he failed to exhaust this claim before the BIA. *See Barron v. Ashcroft*, 358 F.3d 674, 678 (9th Cir. 2004). Accordingly, this claim is dismissed.

We have jurisdiction under 8 U.S.C. § 1252 to review his remaining claims. We review for substantial evidence an adverse credibility determination. *Chebchoub v. INS*, 257 F.3d 1038, 1042 (9th Cir. 2001). We deny the petition.

Substantial evidence supports the IJ’s adverse credibility determination based on numerous inconsistencies between petitioner’s application and testimony regarding his identity, political affiliations, and religion. *See id.* at 1043-45. We therefore deny petitioner’s asylum claim.

Because petitioner failed to demonstrate that he was eligible for asylum, it follows that he did not satisfy the more stringent standard for withholding of removal. *See Farah v. Ashcroft*, 348 F.3d 1153, 1156 (9th Cir. 2003).

PETITION FOR REVIEW DISMISSED in part; DENIED in part.